

a peripheral wall extending in a rearward direction from said front surface;  
an aperture being defined on a portion of said peripheral wall;  
whereby said aperture is adapted to receive the scenting device in a removable, yet secure,  
manner such that the frame occludes the aperture when the scenting device is installed.

### **REMARKS**

This amendment is responsive to the Office Action dated January 24, 2002. Following the instant Amendment, Claims 1, 3-8, and 11-20 are pending in the present application. Claims 2, 9 and 10 are hereby deleted without prejudice to Applicant's rights in filing future continuation applications and arguing the same to allowance. Applicant has specifically addressed each and every one of the Examiner's comments both to the Specification and the Claims in the Amendments hereto. Thus, Applicant respectfully submits the remaining claims, as amended herewith, are allowable and an early notification of allowance is requested.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**" For the convenience of the Office, all of Applicant's claims 1-20 are re-written therein for reference and the deleted and amended claims are indicated as such.

This response is being filed within six (6) months from the mailing date of the Office Action and a Petition for an Extension of Time is filed herewith along with the appropriate fee.

**I. Claim Rejections – 35 USC §112**

The Office Action rejected Claims 4 and 9 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has hereby amended Claims 4 and 9 to clarify the subject matter which the Applicant regards as the invention and respectfully requests the withdrawal of the rejections and asserts that the claims are in condition for allowance.

**II. Claim Rejections – 35 USC §102**

The Office Action rejected Claims 1, 11 and 12 under 35 USC 102(b) as being anticipated by West US Pat. No. 5,572,800 ("West"). Applicant respectfully traverses the rejections and asserts that Claims 1, 11 and 12 are novel and patentable in view of the remarks and/or amendments set forth herein.

It is well settled that "A plurality of claims should never be grouped together in a common rejection..." and that an omnibus rejection of the claims is inappropriate because it does not delineate the reasoning for the rejections and does not allow the Applicant to form a lucid response. MPEP 707.07(d). If the claims are again rejected in response to this Amendment, Applicant respectfully requests a reasoning for each rejection applicable to each Claim rejected

such that Applicant may form a lucid response for each claim. Nevertheless, Applicant respectfully traverses the rejection under West and asserts the patentability of the rejected claims based upon the following arguments.

It is well settled that an anticipatory reference must teach each and every one of the limitations of the claim(s) alleged to be anticipated thereby. For purposes of illustration but not limitation, West admittedly fails to disclose an attaching means connected to said frame. Conversely, West's device is received within a main body section 20 which is then attached to barrel 10 of the blow drier. In addition, amended claims 11 and 12 clarify the attachment position of Applicant's device to the inlet of the blow dryer, whereas West's device is received at the outlet opening. Accordingly, since dependent Claims 11 and 12 also incorporate the novel and unobvious limitations of Claim 1, they are in turn allowable because of their dependence therefrom. Therefore, because West fails to disclose all of the limitations of Applicant's invention as claimed, Applicant respectfully requests withdrawal of the rejection of Claims 1, 11, and 12 thereunder.

The Office Action rejected **Claims 1, 2, 5, 7, 11 and 12** under 35 USC 102(b) as being anticipated by Russo US Pat. No. 5,649,370 ("Russo"). Applicant respectfully traverses the rejections and asserts that the claims are novel and patentable in view of the remarks and/or amendments set forth herein. As set forth in greater detail above, Applicant traverses the omnibus rejection but sets forth the following arguments.

It is well settled that an anticipatory reference must teach each and every one of the

limitations of the claim(s) alleged to be anticipated thereby. For purposes of illustration but not limitation, Russo fails to disclose at least Applicants limitation set forth in Claim 1 wherein the periphery of Applicant's device has the attaching means thereon. Conversely, Russo requires a strap to be used to secure a portion of the cup member to the conduit and then attach the scenting device to the cup member. Claim 2 depends from allowable Claim 1 and incorporates the novel limitations thereof, and is in turn allowable.

Besides incorporating the novel limitations of Claim 1, Applicant's Claim 5 has the further limitation of the scenting element being incorporated into a first and second layer enclosed peripherally by the frame. Russo fails to disclose such a frame or the enclosure of the scenting elements between the first and second layers. Claim 7 also depends from Claim 1 and incorporates the novel limitations thereof and further discloses numerous limitations for the attaching means which are neither taught nor contemplated by Russo. Amended claims 11 and 12 clarify the attachment position of Applicant's device to the inlet of the blow dryer, whereas Russo's device is received at the outlet opening. In addition, since dependent Claims 11 and 12 also incorporate the novel and unobvious limitations of Claim 1, they are in turn allowable because of their dependence therefrom.

Therefore, because Russo fails to disclose all of the limitations of Applicant's invention as claimed, Applicant respectfully requests withdrawal of the rejection of Claims 1, 2, 5, 7, 11 and 12 thereunder.

The Office Action rejected **Claims 1, 2, 4, 5, 7-10, 13-16, and 18-20** under 35 USC

102(b) as being anticipated by McDowell US Pat. No. 5,273,690 ("McDowell"). Applicant respectfully traverses the rejections and asserts that the claims are novel and patentable in view of the remarks and/or amendments set forth herein. As set forth in greater detail above, Applicant traverses the omnibus rejection but sets forth the following arguments.

It is well settled that an anticipatory reference must teach each and every one of the limitations of the claim(s) alleged to be anticipated thereby. For purposes of illustration but not limitation, McDowell fails to disclose at least Applicants limitation set forth in Claim 1, as amended, wherein Applicant's scent element does not need manual activation. Conversely, McDowell requires a person to use their fingers in order to activate the scent element, "cell 28 is composed of a bubble-like sidewall which may be readily broken by the exertion of finger pressure by the user. Upon such breakage, the substance or ingredients within the cell will pass through the opening 30 into the air stream from the forced air system." (Column 3, lines 58-63) Claims 2 and 4 depend from allowable Claim 1 and incorporate the novel limitations thereof, and are in turn allowable; however, Applicant reserves the right to file further remarks elaborating the patentability of Claims 2 and 4 if they are once again rejected.

Besides incorporating the novel limitations of Claim 1, Applicant's Claim 5 has the further limitation of the scenting element being incorporated into a first and second layer enclosed peripherally by the frame. McDowell fails to teach enclosing the scenting elements between the first and second layers as taught by Applicant, because McDowell's scenting elements need to be ruptured by pressure from a human hand. Claim 7 also depends from Claim 1 and incorporates the novel limitations thereof and further discloses numerous limitations for

the attaching means which are neither taught nor contemplated by McDowell.

Claim 8 also depends from Claim 1 and incorporates the novel limitations thereof and further discloses the retention of the attaching means on an air filter within the air flow conduit, a limitation which is neither taught by nor contemplated by McDowell. Claims 9, 10, and 13 depend from Claim 1 and incorporate the novel and unobvious features thereof and are in turn allowable.

Claim 14 teaches limitations which are not anticipated by McDowell. For purposes of illustration but not limitation, Claim 14, as amended, teaches a scenting device that does not require manual activation. Conversely, as described in greater detail above, McDowell requires the rupturing of scent cells by manual force. Claims 15, 16 and 18 depend from novel Claim 14 and incorporate the novel limitations thereof; however, Applicant reserves the right to supplement these remarks at a future time to further illustrate the novel features thereof.

Claim 19 teaches limitations which are not anticipated by McDowell. For purposes of illustration but not limitation, Claim 19, as amended, teaches a scenting device that does not require manual activation. Conversely, as described in greater detail above, McDowell requires the rupturing of scent cells by manual force. Claim 20 depends from novel Claim 20 and incorporates the novel limitations thereof; however, Applicant reserves the right to supplement these remarks at a future time to further illustrate the novel features thereof.

Therefore, for at least the aforementioned reasons, because McDowell fails to disclose all

of the limitations of Applicant's invention as claimed, Applicant respectfully requests withdrawal of the rejection of Claims 1, 2, 4, 5, 7-10, 13-16, and 18-20 thereunder.

### **III. Claim Rejections – 35 USC §103(a)**

The Office Action rejected **Claim 3** under §103(a) as being unpatentable over McDowell in view of US Pat. No. 5,698,166 to Vick et al. ("Vick"). Applicant respectfully traverses the rejection and the modification, combination and interpretation of the references.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. Neither McDowell nor Vick suggest a reason to modify and combine the references as proposed. McDowell and Vick are individually complete and functional independently for their respective specific limited purpose, and there would be no reason to make the modification or combination proposed by the Office Action.

Second, even if the modification and combination were legally justified, it still would not render Applicant's claimed invention obvious. Applicant's claimed invention teaches immersing the first member in a liquid composition having the scent. As admitted by the office action, McDowell specifically fails to teach the immersion technique, and the combination of Vick fails to overcome the failure. Vick specifically states that the fragrant solution is applied to the substrate and not Applicant's limitation of immersing the substrate into a liquid composition containing the scent element. (Vick, col. 1, lines 16-18)

Third, Applicant respectfully submits that the Office Action is improperly using "hindsight" and the teachings of Applicant's own claimed invention in order to modify McDowell and Vick to render Applicant's claims obvious. The Office Action admits that McDowell fails to teach the scenting device being immersed in a liquid solution. However, the Office Action improperly attempts to modify McDowell by combining Vick, which also fails to teach Applicant's limitation, in an attempt to achieve Applicant's claimed invention.

Finally, if Applicant's claimed invention were in fact obvious, those skilled in the art would have modified McDowell and Vick to implement the advantages of Applicant's claimed invention. The fact that the McDowell, whose teachings were known since at least 1993, has not modified or combined with Vick, whose teachings were known since at least 1997, to implement Applicant's claimed invention, despite its admitted advantages, indicates that Applicant's claimed invention is not obvious.

Accordingly, Applicant respectfully requests withdrawal of the rejection of Claim 3 under McDowell in view of Vick for at least the aforementioned reasons.

The Office Action rejected **Claims 6** under §103(a) as being unpatentable over McDowell in view of Ward US Pat. No. 5,087,273 ("Ward"). Applicant respectfully traverses the rejection and the modification, combination, and interpretation of the references.

It is well settled that in order for a modification or combination of the prior art to be



valid, the prior art itself must suggest the modification or combination. Neither McDowell nor Ward suggests a reason to modify or combine the references as proposed. Each reference is individually complete and functional independently for its limited specific purpose and there would be no reason to make the modification and combination proposed by the Office Action.

Secondly, even if the modification was legally justified, it still would not render Applicant's invention obvious. Applicant's invention teaches the use of a scenting element that is spherical. As admitted by the Office Action, McDowell fails to teach a spherical scenting element, and Ward teaches a plurality of small beads in close proximity to one another, thereby defeating the greater volume to surface area ratio obtained by Applicant's invention.

Thirdly, the Office Action is improperly using "hindsight" and the teachings of Applicant's claimed invention in order to combine references to render Applicant's claims obvious. The Office Action admits that McDowell fails to teach the spherical scenting element limitation of Applicant's invention. However, the Office Action improperly attempts to modify and combine Ward, which also fails to teach all of the limitations of Applicant's invention, with McDowell in an attempt to achieve Applicant's invention.

Fourthly, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in McDowell and Ward in an attempt to meet the advantages of Applicant's invention. Applicant respectfully submits that the fact the modification produces advantages taught by Applicant militates in favor of Applicant because it proves that the combination produces new and unexpected results and hence is unobvious.

Finally, if Applicant's invention were in fact obvious, those skilled in the art would have combined McDowell and Ward by now to implement the advantages of Applicant's invention. The fact that the two references have not been modified or combined to implement Applicant's invention, despite its admitted advantages, indicates that Applicant's invention is not obvious.

Accordingly, Applicant respectfully requests withdrawal of the rejection of Claim 6 under McDowell in view of Ward for at least the aforementioned reasons.

The Office Action rejected **Claim 17** under §103(a) as being unpatentable over McDowell in view of Frigon US Pat. No. 4,563,333 ("Frigon"). Applicant respectfully traverses the rejection and the modification, combination, and interpretation of the references.

It is well settled that in order for a modification or combination of the prior art to be valid, the prior art itself must suggest the modification or combination. Neither McDowell nor Frigon suggests a reason to modify or combine the references as proposed. Each reference is individually complete and functional independently for its limited specific purpose and there would be no reason to make the modification and combination proposed by the Office Action.

Secondly, even if the modification was legally justified, it still would not render Applicant's invention obvious. Applicant's invention teaches the use of a rigid material for the frame that is made of any rigid material including, but not limited to, cardboard and plastic. As admitted by the Office Action, McDowell fails to teach the use of cardboard or plastic in the

frame, and Frigon only teaches the use of cardboard. As a result, the references, even if legally combined, would not render Applicant's claim obvious.

Thirdly, the Office Action is improperly using "hindsight" and the teachings of Applicant's claimed invention in order to combine references to render Applicant's claims obvious. The Office Action admits that McDowell fails to teach the rigid frame limitation of Applicant's claim. However, the Office Action improperly attempts to modify and combine Frigon, which also fails to teach all of the limitations of Applicant's invention, with McDowell in an attempt to achieve Applicant's invention.

Fourthly, the Office Action seems to recognize the advantages of the present invention by trying to make modifications in McDowell and Frigon in an attempt to meet the advantages of Applicant's invention. Applicant respectfully submits that the fact the modification produces advantages taught by Applicant militates in favor of Applicant because it proves that the combination produces new and unexpected results and hence is unobvious.

Finally, if Applicant's invention were in fact obvious, those skilled in the art would have combined McDowell and Frigon by now to implement the advantages of Applicant's invention. The fact that the two references have not been modified or combined to implement Applicant's invention, despite its admitted advantages, indicates that Applicant's invention is not obvious.

Accordingly, Applicant respectfully requests withdrawal of the rejection of Claim 3 under McDowell in view of Frigon for at least the aforementioned reasons.

**IV. Prior Art Made of Record and Not Relied Upon**

Applicant has reviewed the prior art made of record and not relied upon and believes that the prior art neither anticipates nor renders obvious any of Applicant's claims.

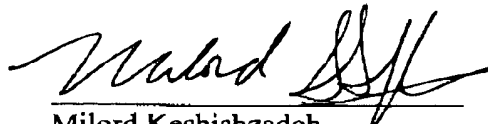
**CONCLUSION**

It is respectfully submitted that the case is now in condition for allowance, and an early notification of the same is requested. If it is believed that a telephone interview will help further the prosecution of this case, Applicant respectfully requests that the undersigned attorney be contacted at the listed telephone number.

Respectfully submitted,

MILORD & ASSOCIATES, P.C.

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

1. (Once Amended) A scenting device for use with an airflow conduit, comprising  
a first member having a scent that does not require activation;  
a frame enclosing said first member at a periphery thereof; and  
an attaching means on said frame for attaching the device to the airflow conduit.
2. The device of Claim 1, wherein said first member is porous.
3. The device of Claim 1, wherein said scent is applied to said first member by  
immersing said first member in a liquid composition having said scent and upon withdrawal of  
the first member, said liquid solidifying upon said first member.
4. (Once Amended) The device of Claim 1, wherein said first member is a fibrous  
material [such as] consisting of at least fiber glass.
5. The device of Claim 1, wherein said first member is comprised of a first layer and a  
second layer and at least a scenting element is maintained between said first layer and said  
second layer upon installation of said frame.
6. The device of Claim 5, wherein said scenting element is spherical.
7. (Once Amended) The device of Claim 1, wherein said attaching means is selected  
from a group consisting of [as] hook and loop fasteners, "S" hook fasteners, pins, barbs, clips,

clamps, adhesives, and tapes.

8. The device of Claim 1, wherein said attaching means is connected to an air filter within said airflow conduit selected from a group consisting of at least a heating, an air conditioning, and ventilating system.

9. (Once Amended) The device of Claim 1, wherein said attaching means [is a] further comprises a mounting means [is] having a substantially "U" shaped member having an inwardly opening groove of sufficient size to accommodate said frame in a slidingly removable manner.

10. The device of Claim 9, wherein said attaching means is placed on the mounting means and the mounting means is thereby attached to an air flow conduit.

11. (Once Amended) The device of Claim 1, wherein said attaching means removably attaches said device to an inlet of an airflow based dryer means.

12. (Once Amended) The device of Claim 11, wherein said air flow based dryer means is a blow dryer and said inlet is an air intake opening.

13. The device of Claim 10, wherein said mounting means is attached to a vent having a plurality of slotted openings such that said first member is maintained over said plurality of slotted openings.

14. A scenting device adapted for use in a heating, air conditioning, and ventilating system, the device comprising:

a first member having a scent element not requiring activation by manual means;

a frame enclosing said first member at a periphery thereof; and

a mounting means removably receiving said frame therein, and said mounting means having an attaching means for attachment thereof to the heating, air conditioning, and ventilating system.

15. The device of Claim 14, wherein said mounting means is substantially "U" shaped and has an inwardly opening groove of sufficient depth to accommodate said frame in a slidingly removable manner.

16. The device of Claim 14, wherein mounting means is substantially rigid.

17. The device of Claim 14, wherein said frame is made of a substantially rigid material selected from a group consisting of cardboard and plastic.

18. The device of Claim 14, wherein said first member is substantially porous to allow airflow therethrough.

19. (Once Amended) In combination, a scenting device having a scented, porous first member enclosed by a frame around a periphery thereof, and a vent cover for receiving the scenting device;

the scenting device having a scent element not requiring manual activation;

the vent cover further comprising a front surface, said front surface defining a plurality of slotted openings therein;

a peripheral wall extending in a rearward direction from said front surface;

an aperture being defined on a portion of said peripheral wall;

whereby said aperture is adapted to receive the scenting device in a removable, yet secure, manner such that the frame occludes the aperture when the scenting device is installed.

20. The combination of claim 19, wherein the vent cover further comprises at least a retaining means that traverses across substantially opposing portions of said wall such that the scenting device is maintained between the front surface and said retaining means.